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Advisory Council of Real Estate Interests, N.Y.

Retrenchment, taxation and tax limitation in N.Y.

[New York]

[1919]

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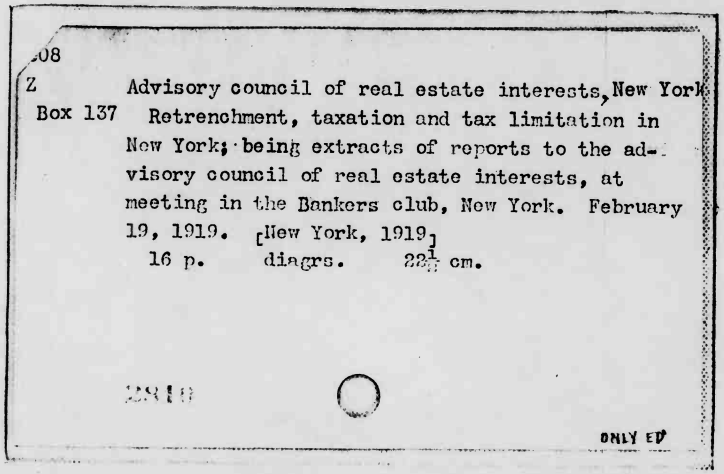

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Advisory council of real estate interests, New York
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Retrenchment, Taxation and Tax Limitation in New York

Being Extracts of Reports
to the
ADVISORY COUNCIL
OF REAL ESTATE INTERESTS
At Meeting in the Bankers Club
New York

FEBRUARY 19, 1919

ADVISORY COUNCIL OF REAL ESTATE INTERESTS

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Walter Lindner, Counsel
Leo Day Woodworth, Secretary

Retrenchment

A very large "new source of revenue" is believed to exist in those budget items which mean the support of commendable but unnecessary functions, or which maintain "jobs for the faithful," both resident and absentee.

The time is believed to be not far distant when real need for efficiency and economy will force a more centralized and responsible administrative system.

Taxation

Those *able* to pay taxes are of necessity the ones who *do* pay. So, equity demands that tax burdens be proportioned according to ability.

Large tax paying ability is now untaxed in New York—much is exempted by payment of nominal charges, but more goes entirely free under our antiquated and inadequate Tax Law.

A tax measure is mentioned herein which is not revolutionary in principle, but which points the way to a scientific tax system, and which will reach tax paying ability without disturbing the present provisions of the Tax Law.

Tax Limitation

Elasticity is essential to any tax system. The wider the tax base, the larger will be the yield and the smaller will be the variation in tax rates.

This elastic base should be the entire earning capacity of the community and not merely that derivable from the income of real estate owners.

To limit the burden on realty to a proportion of the total levy is not only justice—it is sound fiscal policy.

Proportionate tax burdens for property and personal taxes, planned on reasonable and scientific lines, is provided for in the bill drafted by counsel of the Advisory Council of Real Estate Interests. Copies will be sent on application.

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NOTE

Those who give much attention to matters of taxation frequently are asked, Why don't you start a movement for lopping off the waste and extravagance in all branches of government? It is inferred that some one is remiss in duty—*but not the questioner.*

No one is more interested in the growing burden of taxation than the millions and billions of property and taxable income which is represented in the work of the Advisory Council of Real Estate Interests. None are more keenly aware of inefficiency and waste than are the eminent executives and professional men who conduct the Council's work.

This little book is made up of extracts from reports at a recent meeting, and published, not because it reveals anything heretofore unknown as to the public's business, but to emphasize the growing seriousness in both the amount and levy of the state and local tax burdens. Don't think that New York has any monopoly on the tendencies and needs here set forth!

Apathy on these matters is as general as it is costly. Citizens, whether owners or tenants of realty, seem to think that some one else will hand them equitable taxes along with more of the possible something-for-nothing which the government dispenses! Meanwhile, budgets grow, taxes grow, extravagance grows and exemptions grow for the one and only reason that the citizens support such a policy!

Mr. Reader, what about apathy in *your* vicinity? Are you ready to *do* something on behalf of economy, efficiency —and equitable taxation?

The Advisory Council would like to hear from you,— after you read this booklet.

L. D. W.

From Report of the Executive Committee:

The tax situation is acute now because of the weight of public expenditures for state and local purposes, being borne by a very narrow tax base.

That the most feasible source of new revenue in this city and state is in the elimination of extravagance and waste, is becoming a common opinion. With this we agree, in principle.

However, until some practical means presents for effecting retrenchment in expenditures, for promoting efficiency and economy in public office, we can only expect further increases.

Retrenchment has never been and can never be forced upon public officials by legal limitation upon or reduction of the revenues to the point of inelasticity. Desirable as such measures might appear, the people are themselves the first to demand their breach. Unless it is the will of the people, legislators will not launch upon the many and varied new projects which must be paid for entirely or at least as to deficits out of the public revenue.

It does not behoove us to blame the present need for retrenchment on officials who chance to be in office. The fault, if such it be, is in our political system.

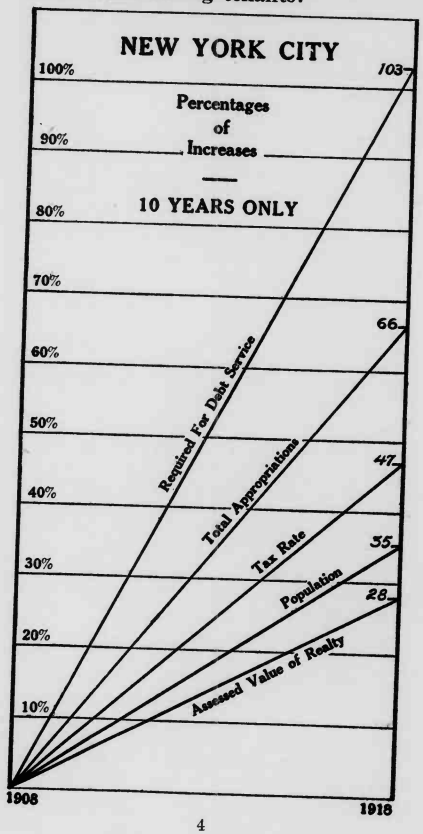
As pointed out by the Mills Committee in 1916, "the increased expenditures to be noted in all cities have been incurred in response to the demands of the citizens of the localities for better service, and for the assumption by government of duties unthought of by previous generations."

But the amounts of these increases is not generally realized, and I would have you consider the following data:

Both houses of the state legislature have long had committees on taxation *and retrenchment,* although they rarely digress long enough from their work of considering new taxes to indicate a practical meaning for the last half of its official title. However, we would submit that the time is near at hand when retrenchment must receive as much attention as does taxation.

"Where are we going?" This is the inevitable question of any thoughtful person who studies the tables on the opposite page.

Why should not this force down equities and force up rents? It has. But also, it will force down building activities and force down the quality of housing. Lower rents can only come with competition among landlords instead of the present competition among tenants!



Compare the year 1918 with 1908, and we find that the appropriations of New York City have increased 66 per cent, although population increased but 35 per cent; and although assessed values have been boosted to the utmost in order to increase them 28 per cent, the tax rate has increased 47 per cent.

Total Budget Appropriations

1903	$ 97,000,000
1908	143,000,000
1912	181,000,000
1916	212,000,000
1918	238,000,000

Total Assessments, Ordinary Realty

1903	$4,500,000,000
1908	6,000,000,000
1912	7,280,000,000
1916	7,568,000,000
1918	7,672,000,000

Tax Rate, Borough of Manhattan

1903	1.41
1908	1.61
1912	1.83
1916	2.04
1918	2.36

Population of the City

1908	4,300,000
1912	5,000,000
1918	5,800,000

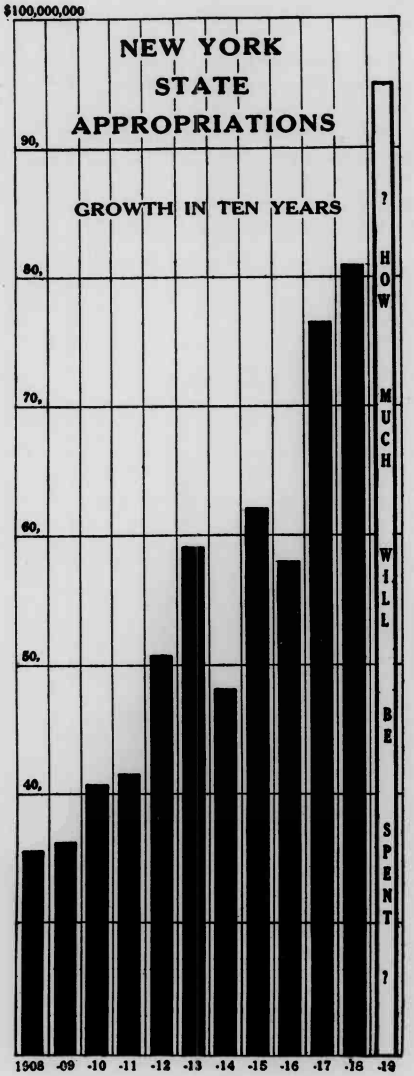
To compare New York City with other large cities is but to furnish additional reasons for retrenchment and for tax limitation in our metropolis. Data is for 1917.

Property (Realty) Taxes Per Capita

New York	$30
Chicago	20
Philadelphia	16
St. Louis	19
Baltimore	19

Percentage of Total Revenue Levied on Property (and so Increasing Rents!)

New York	71
Chicago	56
Baltimore	61
Philadelphia	60
St. Louis	56
10 largest cities	66



The cost of New York State government increased *128 per cent* from 1908 to 1918, while the population increased only 25 per cent.

This statement should arouse inquiry by every taxpayer—or shall the same ratio be permitted to continue?

The state is the victim of certain tendencies which of late have been especially marked at Washington, which we have not the time here to particularize. But we will mention the following:

(1) Unprofitable facilities, conveniences and developments.

(2) Performance of work by political appointees rather than by contract.

(3) Regulatory measures for the presumed advancement of humanistic rather than of sound economic welfare.

(4) Bureaucratic dominance in matters previously within the discretion of the legislature.

The "fads and fancies" of a democracy prefer state to municipal control because less subject to criticism and more likely to enjoy large appropriations.

Furthermore, the borrowing power of the cities is now inadequate to establish new plant, and all revenues are already spoken for.

The population of the state has increased as follows:

1908	8,700,000
1912	9,000,000
1916	10,200,000
1918	10,700,000

The appropriations have been as follows:

1908	$36,000,000
1912	52,000,000
1916	75,000,000
1918	82,000,000

The tax-spending ability of the legislature is also manifested by mandatory charges (usually for salaries) which it places upon municipalities, and which removes from local control the expenses of an ever increasing number of public employees.

The need for judicious control of expenditures in city and state is especially important at this time when the actual needs of the Federal government are so enormous, but also in view of the readjustment problems which threaten new waste and added Federal extravagance under the guise of "reconstruction" and for the distribution of "pork."

Duplication of those activities by the State should and must be avoided.

Political "log rolling" for sectional benefit and class advantage has come to hold threats not even dreamed of in the past.

With the iniquities of "pork" we have long been acquainted, but what of the cost to taxpayers when to the scandal and thievery of the old-time public building and river and harbor bills, the Federal government adds the billions of waste and extravagance which will accompany so-called Federal "aid" to local road improvement, local education, local employment service, local waterways, local mortgage loans and almost every other conceivable project for reform and uplift. Political control of wages and employment is advocated in direct violation of the immutable laws of economics.

This movement appears to have two bases: First, and probably foremost, is the popular notion that New York and the East is a land of easy money which can be drawn upon *ad libitum* for the benefit of less favored localities and less ambitious populations.

Second, a Federal (even more than a state) bureaucracy can operate with greater resources, and with less accountability for results or responsibility for principles, than in any other democracy or republic on the face of the earth.

New York has a direct and vital interest in these matters: It pays about forty per cent of the cost of Federal government. Also, uneconomic and utopian regulations of commerce and industry are reflected directly in the daily life of the metropolis.

Apathy on the part of taxpayers is at the root of the whole situation. The facts are not new, although their true extent is rarely appreciated.

The cause of this apathy as regards the state government is unquestionably to be found in our system of taxation, which produces the great bulk of state revenues through indirect (i. e., unfelt) taxes.

Even real estate owners do not worry about the tax rate in periods when the value of the property is increasing, and the income out of which the taxes must be paid is ample either from rents or from resale at a profit. These conditions no longer exist. Taxes cannot be paid from income in a large number of cases, and therefore they result in confiscation of principal.

Thus caught with property which does not meet operating expenses and which cannot be unloaded because the market has been destroyed, he finds a great bulk of tax-paying ability which is not reached by our present laws. The future promises increasing budgets and larger confiscation of investment, while these tax burdens often are for the direct personal benefit of those who pay little or nothing therefor.

The taxpayer finds that the extraordinary increases in the cost of government too often result from unchecked sentimentality, false patriotism or astonishing ignorance of the laws of economics. These dangerous tendencies are given support and direction by the many bureaucracies which peace finds intoxicated with autocratic power, without a sense of financial responsibility and heedless of economic necessities.

On the one hand we have the continuing effects of the Federal attack on New York's banking and commercial interests, without whose personnel and equipment America's activity in the second year of the world war would have been impossible.

On the other hand, we have the various propagandists who can neither read the past nor forecast the future, but seek ephemeral wealth for their dupes by intimidation, paternalism, and public extravagance.

But before plunging into new activities, it is both proper and necessary that we view our resources and facilities. The waste and inefficiency in our local, state and national governments are enormous. They are there with OUR consent! They are unmeasured. How to eradicate them is not clear. The facts are not at hand, nor are they to be expected through official channels.

This question then arises: How long before the taxpaying interests will be compelled to institute a research and publicity center, dealing with facts or established theories, speaking in the language of the man in the street and co-operating with legislators and officials.

It is quite possible, gentlemen, that we will find that the thorough work which we have undertaken in connection with the tax problem merely scratches the surface for the greater work which we must be prepared to undertake in the future.

Miscellaneous

A considerable variety of other matters have pressed upon the committee for attention, but I will not detain you with even a detailed discussion thereof.

The Tenement House Law should be so amended as to permit of the alteration into four-family apartments of the thousands of private houses now a drug on the market in Manhattan. Such alteration will provide a needed increase in housing facilities and at least sustain many tax assessments which should otherwise be lowered. Investment in such alterations is made possible by the high rents now obtainable.

The question of salaries and pensions in the various public departments appears to be of increasing importance each year.

* * * *

Questions pertaining to our mortgage system are of vital importance. Such are the principles and methods of amortization, of private loans of public funds raised by taxation or the sale of tax-exempt securities, of dividing a mortgage debt among several owners, of enforcing better building.

Time precludes a detailed consideration of those and many other matters of vital concern to the real estate and commercial interests in New York—not the least of which pertain to the scope and effect of the Federal revenue laws.

* * * *

We, who refuse to be stampeded by the claptrap not only of the "parlor Bolshevists," the disguised anarchists, and the un-Americanized foreigner, or by the "economic illiterate" in our midst; we, who demand the definition of such terms as "land," "labor" and "profiteer" before adopting uncertain remedies for undefined diseases—must use discrimination in dealing with the various proposals for public ownership of utilities, development of natural resources and extension of governmental activities.

* * * *

To extend the usefulness and effectiveness of the Advisory Council is the constant aim of your officers.

Respectfully,

Cyrus C. Miller, *Chairman*,
Alfred E. Marling,
Clarence H. Kelsey,
George T. Mortimer,
Adolph Bloch,
Robert E. Simon.
Leo Day Woodworth, *Secretary*,

From Report on Taxation:

Your committee on taxation has collected such documents and information as seemed necessary for constructive work, but early decided that much further research was needed.

The 1916 report of the Joint Legislative Committee on Taxation, Senator Ogden L. Mills, chairman, was found to be remarkably thorough in its statement of principles, and the bill presented at that time has been used as the basis for the bill which we recently presented to the Joint Legislative Committee.

The additional material has been very largely in the nature of a completion of the investigations undertaken by the Mills Committee. We were fortunate in securing the services of Prof. H. A. E. Chandler, of Columbia University, as expert in charge of this work, he having served in a like capacity for the Legislative Committee.

Several reports have been received as the result of these investigations. We regret our inability to make these reports available to all members because of the expense involved in publication, but parts will be printed as occasion affords. The subjects of these various reports are as follows:

"The state income tax," yield and distribution.

"Limitation of tax burden" on realty to a fixed proportion of the levy.

"Effect of proportionate limitation" in up-state cities.

"Effect of low rate personalty tax" on the constitutional tax limit.

"The business tax" for equitable distribution of the local tax burden.

"Future budget appropriations."

Numerous incidental reports.

The report to the National Tax Association on a "Model Plan for State and Local Taxation," by a large committee of tax officials and experts, Prof. Charles J. Bullock, chairman, has led to a new outlook by all students of taxation. It has had a wide educational influence, and a synopsis prepared by our secretary has been reprinted in many papers and periodicals.

A plan for constructive legislation has been embodied in a bill which does not attempt the easy but wholly impracticable course of assuming that the present state tax law can be rebuilt at once. It is framed on the theory of first reaching tax-paying ability which now escapes, in such manner that the present patchwork of tax laws can be repealed or incorporated therein from time to time.

It is believed that this year is especially favorable to a consideration of tax reform measures on their merits. In the first place, the state and practically all of the cities are demanding additional revenue, and there is general agreement that the tax rate should not be increased, and even that the present tax base is inadequate. In the second place, we are as far as possible from an election, and political conditions will not be so favorable again in four years.

The present increases in rentals may force tenants to realize that the problem of tax reform is as vital to them and perhaps even more vital than it is to landlords.

Co-operation.—Various special committees have been appointed by other bodies in the city and state, with all of which we are in close touch, and with some we have been able to co-operate intimately. These special committees in the order of their appointment are as follows:

Mayor's Committee on Taxation
NATHAN HIRSCH, *Chairman*

State Conference of Mayors
MAYOR WM. J. WALLIN, *Chairman*

State Tax Association
HON. JOHN J. MERRILL, *Chairman*

State Reconstruction Commission
ALFRED E. MARLING, *Chairman*

Joint Legislative Committee
Senator FREDERICK M. DAVENPORT, *Chairman*

We take pleasure in acknowledging the services of our counsel, and his expert assistants. Mr. Louis Franklin Lee was retained to work with Mr. Lindner on bill drafting.

In form, the Advisory Council bill has three parts:

***First,* a general income tax intended to levy upon all incomes of residents except that from business and property located outside the state, and from all business conducted within the state. We distinguish between so-called earned and unearned incomes and do not attempt the repeal of present exemptions.**

***Second,* provision is made for *limitation of the tax burden* upon real property, by specifying the percentage of the tax levy in cities of different sizes.**

***Third,* if any additional revenue is made necessary by this limitation, the municipalities are authorized to levy an additional rate on business incomes.**

It will be noticed that this plan avoids the fiscal objections to the proposed *fixed tax rate* upon real estate, and provides what we believe to be essential to any tax system, namely, elasticity. We agree with those who contend that a fixed rate on real property, unless some other large source of revenue is taxed at a variable rate, will afford only temporary relief. The experience with the fixed rate in Ohio is conclusive that it will not restrict the operations of government, however desirable that may be. We see no indication of an opportunity for revising the fundamental principles of our methods of taxation.

This leads to the further conclusion that if the public revenue is inadequate and deficits are permitted to continue, the time comes when real estate will be called upon to make up the deficiency. That this is the experience in Ohio, although the fixed rate there was ample to meet all budgets when first adopted, is indicated by a letter received this week from the secretary of the Cleveland Association of Building Owners and Managers, to the effect that real estate is fighting for its life "in opposition to efforts on the part of the administration to wallop real estate to provide enormous funds covering *accumulated deficits.*" The

State Auditor of Ohio has reported that the entire revenue from state and local taxation in 1917 was insufficient to meet debt service alone.

Regarding the *low rate tax on personalty,* it seems to be the invariable experience that although there is a large increase in the amount of property assessed, the net return is little, if any, more than was previously received under the general property tax. What the effect of such a tax would be in New York is impossible of determination. We have concluded that the low rate tax on personalty, however equitable, does not afford promise of the greatly enlarged base and the large amount of additional revenue which must be obtained if any relief is to be afforded to real estate.

Conclusion

It has not been deemed wise or necessary to advocate any wide departure from the accepted principles of taxation, or from the popular sentiment as revealed in the tax laws of this country.

Ability to pay is unquestionably the only proper basis for distribution of the tax burden. The present tax law has resulted in tax chaos, and in a most inequitable distribution of the tax burden between citizens, because of its failure to recognize that principle.

In closing, however, we must comment on the general apathy of citizens to this great problem which affects all their relations. Our efforts to break down this apathy will be limited only by our facilities.

Respectfully submitted,

Albert G. Milbank, *Chairman.*
Alfred E. Marling,
John J. Pulleyn,
Robert E. Simon
Robert Walton Goelet,
Walter Lindner, *Counsel.*
Leo Day Woodworth, *Secretary.*

From Report of Law Committee:

Matters in addition to drafting income tax bill, described in report on tax work:

Depreciation.—The Federal income acts have authorized a deduction of "exhaustion, wear and tear" in the determination of net income. The Treasury rulings have limited the scope of this phrase so that the ordinary amount of depreciation is not being allowed.

Our effort to build a table of standard rates to be applied in making these deductions has been delayed by lack of facilities, while the office has been giving its entire attention to matters of state and local taxation.

Interest Deductions by Corporations.—The Council's law committee, both by personal conference in Washington and by brief, made a strenuous effort to allow corporations as broad an allowance for interest payments as is made to individuals, and we expect to establish that even under the present language such deductions are justified.

Dealers.—The Council has given serious attention to the treasury rulings which prevent speculative dealers in real property from making deductions of interest not allowed to owners, in cases where the dealers have been unable to show dealings although prevented therefrom by the unfavorable market conditions. The matter is in the hands of a subcommittee of which Mr. Stoddard is chairman.

Priority of Federal Tax Liens.—The general lien for unpaid Federal taxes might be cut off under Senate bill No. 5,303, introduced and now being pressed for enactment by Senator Calder at the request of your law committee by which it was drafted. The bill would permit the United States of America to be made a party in foreclosure and partition suits.

Release from State Tax Lien.—The general lien against property of a corporation for taxes assessed on corporations and franchises might be apportioned by the State Tax Department, and released upon payment to the State Comptroller of a part of the unpaid taxes, under a bill which has been drafted by your law committee for enactment at the present session of the state legislature.

* * * *

Respectfully,

WALTER LINDNER, *Chairman*

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SAM A. LEWISOHN
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JAMES G. TIMOLAT
President, Oakland Chemical Works

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Ex-President United Real Estate Owners Association
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ALBERT G. MILBANK
Masten & Nichols
CYRUS C. MILLER
Ex-President, Borough of Bronx
HENRY WARE SPRAGUE

Secretary:

LEO DAY WOODWORTH
55 Liberty Street, New York

INTENTIONAL SECOND EXPOSURE

From Report of Law Committee:

Matters in addition to drafting income tax bill, described in report on tax work:

Depreciation.—The Federal income acts have authorized a deduction of "exhaustion, wear and tear" in the determination of net income. The Treasury rulings have limited the scope of this phrase so that the ordinary amount of depreciation is not being allowed.

Our effort to build a table of standard rates to be applied in making these deductions has been delayed by lack of facilities, while the office has been giving its entire attention to matters of state and local taxation.

Interest Deductions by Corporations.—The Council's law committee, both by personal conference in Washington and by brief, made a strenuous effort to allow corporations as broad an allowance for interest payments as is made to individuals, and we expect to establish that even under the present language such deductions are justified.

Dealers.—The Council has given serious attention to the treasury rulings which prevent speculative dealers in real property from making deductions of interest not allowed to owners, in cases where the dealers have been unable to show dealings although prevented therefrom by the unfavorable market conditions. The matter is in the hands of a subcommittee of which Mr. Stoddard is chairman.

Priority of Federal Tax Liens.—The general lien for unpaid Federal taxes might be cut off under Senate bill No. 5,303, introduced and now being pressed for enactment by Senator Calder at the request of your law committee by which it was drafted. The bill would permit the United States of America to be made a party in foreclosure and partition suits.

Release from State Tax Lien.—The general lien against property of a corporation for taxes assessed on corporations and franchises might be apportioned by the State Tax Department, and released upon payment to the State Comptroller of a part of the unpaid taxes, under a bill which has been drafted by your law committee for enactment at the present session of the state legislature.

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Respectfully,

WALTER LINDNER, *Chairman*

ADVISORY COUNCIL OF REAL ESTATE INTERESTS

Owners:

ROBERT WALTON GOELET
AUGUST HECKSCHER
DARWIN R. JAMES, JR.
President, American Chicle Company
G. HOWLAND LEAVITT
SAM A. LEWISOHN
Adolph Lewisohn & Sons
GEORGE T. MORTIMER
President, Equitable Office Building Corporation
ROBERT E. SIMON
President, Henry Morgenthau Company
JESSE I. STRAUS
President, R. H. Macy & Company
JAMES G. TIMOLAT
President, Oakland Chemical Works

Mortgages:

SAMUEL H. BEACH
President, State Association of Savings Banks, Rome
LOUIS V. BRIGHT
President, Lawyers' Title & Trust Company
WILLIAM B. CARDOZO
Vice-President, Farmers' Loan & Trust Company
FREDERICK H. ECKER
Treasurer, Metropolitan Life Insurance Company
RICHARD M. HURD
President, Lawyers' Mortgage Company
CLARENCE H. KELSEY
President, Title Guarantee & Trust Company
WILLARD V. KING
President, Columbia Trust Company
CHARLES A. MILLER
President, Savings Bank of Utica
JOHN J. PULLEYN
President, Emigrant Industrial Savings Bank
HENRY A. SCHENCK
President, Bowery Savings Bank

Brokers and Managers:

DOUGLAS L. ELLIMAN
President, Douglas L. Elliman & Company
ALFRED E. MARLING
President, Horace S. Ely & Company
WILLIAM H. WHEELOCK
President, Douglas Robinson, Charles S. Brown Company

Lawyers:

WILLIAM J. AMEND
ADOLPH BLOCH
Ex-President United Real Estate Owners Association
ERNEST HALL
ALBERT G. MILBANK
Masten & Nichols
CYRUS C. MILLER
Ex-President, Borough of Bronx
HENRY WARE SPRAGUE

Secretary:

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55 Liberty Street, New York

MSH # 22754

END OF
TITLE